

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. 03-CV-1991

CABOT CORPORATION;
CARPENTER TECHNOLOGY CORPORATION;
INTERNATIONAL FLAVORS AND FRAGRANCES,
INC.;
JOHNSON MATTHEY INC.;
KEM MANUFACTURING CORPORATION;
METUCHEN HOLDINGS, INC.;
RÜTGERS ORGANICS CORPORATION;
WASTE MANAGEMENT OF NEW JERSEY, INC.;
CWM CHEMICAL SERVICES, LLC; and
SPIRAL METAL COMPANY, INC.

Defendants.

CONSENT DECREE

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I. BACKGROUND

A. The United States of America (“United States”), on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607, as amended (“CERCLA”), seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Evor Phillips Leasing Superfund Site in the Township of Old Bridge, Middlesex County, New Jersey (“the Site”).

B. The defendants that have entered into this Consent Decree (“Settling Defendants”) do not admit any liability to Plaintiff arising out of the transactions or occurrences alleged in the complaint. Settling Federal Agencies do not admit any liability arising out of the transactions or occurrences alleged in any counterclaim asserted by Settling Defendants.

C. Upon entry of this Consent Decree by the District Court, and not otherwise, Ford Motor Company, Spectraserv, Inc., and A & S Transportation Company are submitting to the jurisdiction of this Court as defendants in order to receive the benefits of, and be bound by, this Consent Decree. Each of Ford Motor Company, Spectraserv, Inc., and A & S Transportation Company is involved in litigation of contribution claims relating to the Site in this District.

D. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED,

ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, and upon Settling Defendants and their successors and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*
- b. "Consent Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent

Decree shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

g. "Group Defendants" shall mean all Settling Defendants, with the exception of Kem Manufacturing Corporation.

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

j. "Parties" shall mean the United States and Settling Defendants.

k. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or DOJ on behalf of EPA has incurred at or in connection with the

Site through August 31, 2002, plus accrued Interest on all such costs through October 16, 2002.

l. "Plaintiff" shall mean the United States.

m. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

n. "Settling Defendants" shall mean Cabot Corporation; Carpenter Technology Corporation; Ford Motor Company; International Flavors and Fragrances, Inc; Johnson Matthey Inc.; Kem Manufacturing Corporation, ("Kem"); Metuchen Holdings, Inc.; Rütgers Organics Corporation; Waste Management of New Jersey, Inc.; CWM Chemical Services, LLC; Spiral Metal Company, Inc.; A&S Transportation; and Spectraserv.

o. "Settling Federal Agencies" shall mean the Department of the Navy, the Defense Logistics Agency, and the National Imaging and Mapping Agency.

p. "Site" shall mean the Evor Phillips Leasing Superfund site, encompassing approximately six acres, located at Old Bridge Township, Middlesex County, New Jersey, and generally shown on the map included in Appendix A.

q. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. PAYMENT OF RESPONSE COSTS

4. Payment of Past Response Costs by Group Defendants to EPA.

a. The Group Defendants have established an escrow account ("Escrow Account") bearing interest on commercially reasonable terms under the auspices of a federally chartered bank doing business in the State of New Jersey, and have paid assessments into the Escrow Account in an amount in excess of Five Hundred and Forty Thousand Dollars

(\$540,000). The Group Defendants shall pay all fees, costs, taxes and charges related to the Escrow Account, and those amounts will not be deducted from the principal or interest owed from the Escrow Account to the United States. The obligations of the members of the Group Defendants under this Paragraph are joint and several.

b. Until the requirements of this Paragraph 4 have been fully satisfied, the Group Defendants shall maintain a balance of at least \$540,000, plus Interest on that amount running from August 15, 2003, in the Escrow Account. This balance shall remain in the Escrow Account and no withdrawal may be made by any person which would have the effect of reducing the balance in the Escrow Account below this amount, except to make the payment required by Subparagraph 4.c. of this Consent Decree, or unless one of the following events occurs: (1) the United States withdraws its consent to the entry of this Consent Decree after the Consent Decree has been executed; or (2) a final judicial determination is made that the Consent Decree will not be approved and entered in the form signed by the Parties. If one of these events occurs, all sums in the Escrow Account, including interest, may be returned to the Group Defendants.

c. Within five (5) days of receiving notice of entry of this Consent Decree, the Group Defendants shall cause the full principal amount of \$540,000 held in the Escrow Account pursuant to Subparagraph 4.a., plus all interest accrued on this amount from August 15, 2003, to be disbursed from the Escrow Account and paid to EPA in the manner described in Subparagraph 4.d. below.

d. The payment required by Subparagraph 4.c. shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing the U.S.A.O. file number, the EPA Region and Site/Spill ID #02-92, and DOJ case number

90-11-3-07162. Payment shall be made in accordance with instruction provided by the United States to the Group Defendants after lodging of the Consent Decree. Payment by EFT must be received at the DOJ lockbox bank by 4:00 P.M. (Eastern Time) to be credited on that day. Upon payment by EFT, the Group Defendants shall provide notice of payment, with reference to the date of the EFT, the payment amount, the name of the site, the case number, and the name and address of each Settling Defendant on whose behalf the payment is made, to:

Chief, Environmental Enforcement Section
 Environment and Natural Resources Division
 U.S. Department of Justice
 P.O. Box 7611
 Washington, D.C. 20044-7611
 (DJ # 90-11-3-07162)

Carol Petersen
 New Jersey Superfund Branch
 Emergency and Remedial Response Division
 U.S. Environmental Protection Agency, Region II
 290 Broadway, 19th Floor
 New York, NY 10007 -1866

Donna Vizian, Chief
 Financial Management Branch
 U.S. Environmental Protection Agency, Region II
 190 Broadway, 29th Floor
 New York, NY 10007-1866

e. The obligations of the Group Defendants to pay amounts owed the United States by them under this Consent Decree are joint and several. In the event of the failure of any one or more member(s) of the Group Defendants to make the payments required under this Consent Decree, the remaining members of the Group Defendants shall be responsible for such payments.

5. Payment of Past Response Costs by Kem to EPA.

Within thirty (30) days of entry of this Consent Decree, Kem shall pay to EPA one

hundred and eighty-thousand dollars (\$180,000), plus an additional sum for Interest on that amount calculated from August 15, 2003 through the date of payment. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with EFT instructions provided to Kem by the Financial Litigation Unit of the U.S. Attorney's Office in the District of New Jersey following lodging of the Consent Decree. Payment by EFT must be received at the DOJ lockbox bank by 4:00 P.M. (Eastern Time) to be credited on that day. Upon payment by EFT, Kem shall provide notice of payment, with reference to the date of the EFT; the payment amount, the name of the site, the case number, and its name and address, to:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(DJ # 90-11-3-07162)

Carol Petersen
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U.S. Environmental Protection Agency, Region II
190 Broadway, 29th Floor
New York, NY 10007-1866

6. The total amount to be paid by Settling Defendants pursuant to Paragraphs 4 and 5 shall be deposited in the EPA Hazardous Substance Superfund.

7. a. As soon as reasonably practicable after the date of entry of this Consent Decree,

and consistent with Paragraph 7.c., the United States, on behalf of Settling Federal Agencies, shall pay to the EPA \$270,000, in reimbursement of Past Response Costs, plus an additional sum for Interest on that amount calculated from August 8, 2003 through the date of payment.

b. The total amount to be paid by Settling Federal Agencies pursuant to Paragraph 7.a. shall be deposited in the EPA Hazardous Substance Superfund.

c. If the payment to EPA required by Paragraph 7.a. is not made as soon as reasonably practicable, the appropriate EPA Regional Branch Chief may raise any issues relating to payment to the appropriate DOJ Assistant Section Chief for the Environmental Defense Section. In any event, if this payment is not made within 120 days after the date of entry of this Consent Decree, EPA and DOJ have agreed to resolve the issue within 30 days in accordance with a letter agreement dated December 28, 1998.

d. The Parties to this Consent Decree recognize and acknowledge that the payment obligations of Settling Federal Agencies under this Consent Decree can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Decree shall be interpreted or construed as a commitment or requirement that any Settling Federal Agency obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

VI. FAILURE TO COMPLY WITH CONSENT DECREE

8. Interest on Late Payments. If the Group Defendants fail to make the payment under Paragraph 4 (Payment of Past Response Costs) by the required due date, Interest shall continue to accrue on the Group Defendants' unpaid balance through the date of payment. If Kem fails to make the payment under Paragraph 5 (Payment of Past Response Costs) by the required due date,

Interest shall continue to accrue on Kem's unpaid balance through the date of payment.

9. Stipulated Penalty.

a. If any amounts due under Paragraph 4 are not paid by the required date, the Group Defendants shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 8, \$2,000 per violation per day that such payment is late. If any amounts due under Paragraph 5 are not paid by the required date, Kem shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 8, \$2,000 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made by EFT to Mellon Bank, Pittsburgh, Pennsylvania, as follows: Settling Defendants shall provide the following information to their bank:

- i. Amount of payment;
- ii. Title of Mellon Bank Account to receive the payment: EPA;
- iii. Account Code for Mellon Bank Account receiving the payment: 9108544;
- iv. Mellon Bank ABA Routing Number: 043000261;
- v. Name of remitting Settling Defendants;
- vi. Civil Action No. 03-CV-1991; and
- vii. Site/Spill Identifier: 02-92.

c. At the time of each payment, Group Defendants or Kem (as appropriate) shall

also send notice that payment has been made on its behalf to EPA and DOJ in accordance with Section XII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number 02-92, DOJ Case Number 90-11-3-07162, and the civil action number.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation(s) or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

10. If the United States brings an action to enforce this Consent Decree, the Settling Defendants against whom enforcement action is taken shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

11. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of any Settling Defendant's failure to comply with the requirements of this Consent Decree.

12. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section V or from performance of any other requirements of this Consent Decree. In no event shall the Group Defendants be liable for the obligations of or penalties imposed upon Kem, nor shall Kem be liable for the obligations of or penalties imposed upon the Group Defendants, under this Consent Decree.

VII. COVENANT NOT TO SUE BY PLAINTIFF

13. Covenant Not to Sue Settling Defendants by United States. Except as specifically provided in Section VIII (Reservations of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. This covenant not to sue shall take effect with respect to the Group Defendants upon receipt by EPA of all payments required by Section V, Paragraph 4 (Payment of Past Response Costs) and any amount due from the Group Defendants under Section VI (Failure to Comply with Consent Decree). This covenant not to sue shall take effect with respect to Kem upon receipt by EPA of all payments required by Section V, Paragraph 5 (Payment of Past Response Costs) and any amount due from Kem under Section VI (Failure to Comply with Consent Decree). This covenant not to sue is conditioned, as to the Group Defendants, upon the satisfactory performance by the Group Defendants of their obligations under this Consent Decree and, as to Kem, upon the satisfactory performance by Kem of its obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants and does not extend to any other person.

13.1. Covenant for Settling Federal Agencies by EPA. Except as specifically provided in Section VIII (Reservations of Rights by United States), EPA covenants not to take administrative action against Settling Federal Agencies pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. This covenant shall take effect upon receipt by EPA of all payments required by Paragraph 7 of Section V. This covenant is conditioned upon the satisfactory performance by Settling Federal Agencies of their obligations under this Consent Decree. This covenant extends only to Settling Federal Agencies and does not extend to any

other person.

VIII. RESERVATIONS OF RIGHTS BY UNITED STATES

14. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants and Settling Federal Agencies with respect to all matters not expressly included within the Covenant by Plaintiff in Paragraph 13 and the Covenant for Settling Federal Agencies by EPA in Paragraph 13.1. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants, and EPA and the federal natural resource trustees reserve, and this Consent Decree is without prejudice to, all rights against Settling Federal Agencies, with respect to:

- a. liability for failure of Settling Defendants or Settling Federal Agencies to meet a requirement of this Consent Decree;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

IX. COVENANT NOT TO SUE BY SETTTLING DEFENDANTS

15. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the response actions at the Site, including any claim under the United States Constitution, the Constitution of the State of New Jersey, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

16. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

X. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

17. a. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

b. Kem and the Group Defendants agree that this Consent Decree does not establish, either actually or presumptively, a basis to demonstrate or argue the appropriate allocation of any Party's responsibility for Response Costs at the Site.

18. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants and Settling Federal Agencies are entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for “matters addressed” in this Consent Decree. The “matters addressed” in this Consent Decree are Past Response Costs.

19. Each Settling Defendant agrees that, with respect to any suit or claim for contribution brought hereafter by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ in writing within 10 days of service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

20. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant by Plaintiff set forth in Section VII.

XI. RETENTION OF RECORDS

21. Until 10 years after the entry of this Consent Decree, each Settling Defendant shall preserve and retain all records, reports, or information (hereinafter referred to as "records") now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Records of members of the Group Defendants may be held in a single repository in the custody of their liaison counsel, Fox, Rothschild, Attorneys at Law, P.O. Box 5231 Princeton, New Jersey 08543-5231.

22. After the conclusion of the 10-year document retention period in the preceding paragraph, Settling Defendants shall notify EPA and DOJ at least 90 days prior to the destruction of any such records, and, upon request by EPA or DOJ, Settling Defendants shall deliver any such records to EPA. Settling Defendants may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no records

created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

23. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the Site since notification of potential liability by the United States or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6972. The United States acknowledges that each Settling Federal Agency 1) is subject to all applicable Federal record retention laws, regulations, and policies; and 2) has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XII. NOTICES AND SUBMISSIONS

24. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Defendants in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, the Settling Federal Agencies, and Settling Defendants, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(DJ # 90-11-3-07162)

Chief, Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986
(Attn.: Evor Phillips Site Attorney)

As to EPA:

ATTN: Evor Phillips Leasing Superfund Site Project Manager
New Jersey Remediation Branch
Emergency and Remedial Response Division
290 Broadway, 19th Floor
New York, NY 10007-1866

ATTN: Evor Phillips Leasing Superfund Site Attorney
New Jersey Superfund Branch
Office of Regional Counsel
290 Broadway, 17th Floor
New York, NY 10007-1866

As to Settling Defendants:

As to the Group Defendants

Kenneth H. Mack
Fox, Rothschild, O'Brien & Frankel, LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311

As to Spiral Metal Company, Inc.

John F. Kurtz, Jr., Esq.
Hawley Troxell Ennis & Hawley
First Interstate Center

877 Main Street, Suite 1000
Boise, ID 83702

As to Kem

John M. Armstrong
Schnader Harrison Segal & Lewis, L.L.P.
Woodland Falls Corporate Park
220 Lake Drive East, Suite 200
Cherry Hill, NJ 08002-1165

XIII. RETENTION OF JURISDICTION

25. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XIV. INTEGRATION/APPENDICES

26. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendix is attached to and incorporated into this Consent Decree: "Appendix A" is the map of the Site.

XV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

27. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

28. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XVI. SIGNATORIES/SERVICE

29. Each undersigned representative of a Settling Defendant to this Consent Decree and the Chief/Deputy Chief, Environmental Enforcement Section of the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

30. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

31. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The Parties agree that Settling Defendants need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XVII. FINAL JUDGMENT

32. Upon approval and entry of this Consent Decree by the Court, this Consent Decree

shall constitute the final judgment between and among the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS ____ DAY OF _____, 2004.

United States District Judge

Date: 9/30/04

CATHERINE R. MCCABE
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: September 24, 2004

PETER K. KAUTSKY
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: _____

MICHAEL CHAGARES (MC-5483)
Civil Chief
United States Attorneys Office
District of New Jersey
970 Broad Street
Newark, New Jersey 07102

JANE M. KENNY

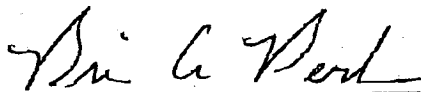
Regional Administrator, Region 2
U.S. Environmental Protection Agency
290 Broadway --17th Floor
New York, New York
10007-1866

JUAN FAJARDO

Assistant Regional Counsel
U.S. Environmental Protection Agency
290 Broadway --17th Floor
New York, New York
10007-1866

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT CABOT CORPORATION

Date: 6/15/04

[Names and address of Defendant's

signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Gerard A. Caron

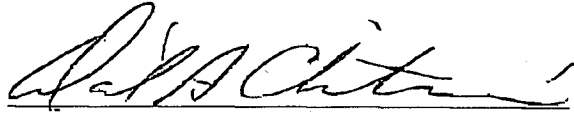
Title: Counsel

Address: Cabot Corp.
Two Seaport Lane
Boston, MA 02210-2109Brian A. Berube
Vice President & General Counsel
Cabot Corp.
Two Seaport Lane
Boston, MA 02210-2109

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT CARPENTER
TECHNOLOGY CORPORATION

Date: July 22, 2004



David A. Christiansen
Vice President, General Counsel and Secretary

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: David A. Christiansen

Title: Vice President, General Counsel and Secretary

Address: 101 West Bern Street
P.O. Box 14662
Reading, Pennsylvania 19612-4662

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THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT FORD MOTOR COMPANY

Date: 7/7/04[Names and address of
Defendant's signatories]**Thomas J. DeZure**
Assistant Secretary

Agent Authorized to Accept Service on Behalf of Above-signed
Party:

Name:

Kathy J. Hofer

Title:

Counsel

Address:

*Suite 1500 PTW
Three Parklane Blvd.
Dearborn, MI 48126*

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cahot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT INTERNATIONAL
FLAVORS AND FRAGRANCES, INC.

Date: _____

By: *Dennis M. Maany*
[Names and address of Defendant's signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Title:

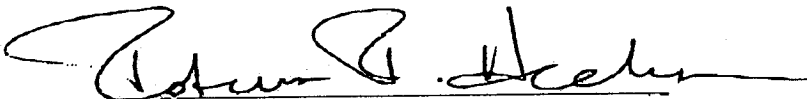
Address:

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT JOHNSON MATTHEY INC.

Date:

7/2/04



Robert F. Hecht

Associate General Counsel

Johnson Matthey Inc.

435 Devon Park Drive, Suite 600

Wayne, PA 19087

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Robert F. Hecht

Title: Associate General Counsel

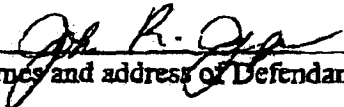
Address: 435 Devon Park Drive, Suite 600
Wayne, PA 19087

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THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT KEM MANUFACTURING CORPORATION

Date: _____


[Names and address of Defendant's signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____

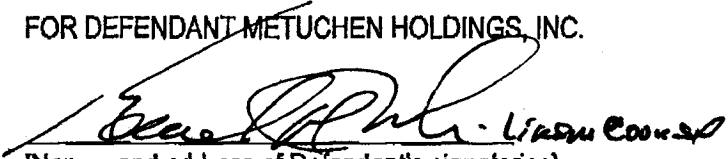
Address: _____

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT METUCHEN HOLDINGS, INC.

Date:

9/23/04


[Names and address of Defendant's signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Metuchen Holdings Inc. is defunct. Contact Person

Title:

IS: Phillip Mahaney

Address:

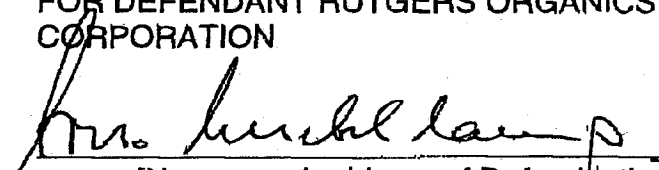
P.O. Box 23738
Hilton Head, SC 29925

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FOR DEFENDANT RUTGERS ORGANICS
CORPORATION

Date: 07/07/04


[Names and address of Defendant's
signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Dr. Rainer Domalski

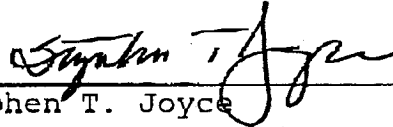
Title: Manager, Remediation Projects

Address: 201 Struble Road, State College, PA, 16801

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT WASTE
MANAGEMENT OF NEW JERSEY,
INC.

Date: July 23, 2004


Stephen T. Joyce
Director, Closed Sites
Management Group
Waste Management, Inc.
4 Liberty Lane West
Hampton, NH 03842

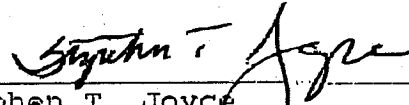
Agent Authorized to Accept Service on Behalf of Above-
signed Party:

Name: Waste Management, Inc.
1001 Fannin Street
Houston, TX 77002
Attention: General Counsel

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT CWM CHEMICAL SERVICES, LLC.

Date: July 23, 2004



Stephen T. Joyce
Director, Closed Sites
Management Group
Waste Management, Inc.
4 Liberty Lane West
Hampton, NH 03842

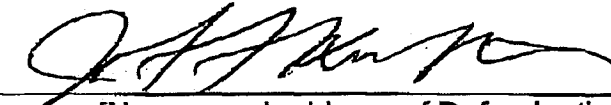
Agent Authorized to Accept Service on Behalf of Above-
signed Party:

Name: Waste Management, Inc.
1001 Fannin Street
Houston, TX 77002
Attention: General Counsel

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT SPIRAL METAL
COMPANY, INC.

Date: 7/30/04


[Names and address of Defendant's
signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: JOHN F. KURTZ, JR., Hawley Troxell Ellis & Hartley

Title: Attorney-in-fact

Address: 877 Main Street
BOISE, Idaho 83701

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT A&S TRANSPORTATION

Date: 6/7/04



[Names and address of Defendant's signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: STEVEN A. TOWNSEND

Title: PRESIDENT

Address: 75 JACOBUS NE
S. KERRY, NJ 07032

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Cabot Corporation, et al. Civ. Action No. 03-CV-1991, relating to the Evor Phillips Leasing Superfund Site.

FOR DEFENDANT SPECTRASERV

Date: 6/7/04



[Names and address of Defendant's signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: STEVEN A. TOWNSEND

Title: PRESIDENT

Address: 75 JACOBUS AVE
E. KENNY, NJ 07032